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STATUS OF BUDGET AUTHORITY

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COMMUNICATION

FROM

THE COMPTROLLER GENERAL OF THE UNITED STATES

TRANSMITTING

NOTIFICATION OF HIS INTENTION TO INSTITUTE A CIVIL ACTION IN THE U.S. DISTRICT COURT TO REQUIRE THAT THE BUDGET AUTHORITY FOR THE STRATEGIC PETROLEUM RESERVE BE MADE AVAILABLE FOR OBLIGATION, PURSUANT TO 2 U.S.C. 687

MARCH 4, 1986.—Referred to the Committee on Appropriations and ordered to be printed

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COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, DC, March 4, 1986.

B-220532.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: As required by section 1016 of the Impoundment Control Act (the Act), this is to advise you of the status of budget authority which the President is withholding contrary to the Act.

Pursuant to section 1013(a) of the Act, 2 U.S.C. 684(a), the President reported to the Congress, on February 6, 1985, the deferral of $270,738,000 appropriated to the Department of Energy for the development, operation and maintenance of the Strategic Petroleum Reserve [SPR]. On August 15, 1985, the Congress passed legislation, the Supplemental Appropriations Act for fiscal year 1985, which the President signed, expressly disapproving the deferral and directing that the funds be made available for obligation. Pub. L. No. 99-88, 99 Stat. 293, 341 (1985).

Under section 1013(b) of the Act, 2 U.S.C. 684(b), funds proposed for deferral must be made available for obligation if either House of Congress passes an impoundment resolution disapproving the deferral. The SPR budget authority was made available, pursuant to the Supplemental Appropriations Act, but remained largely unobligated. However, on February 5, 1986, the President announced a deferral of $197,940,825, which includes $156.8 million that was subject to the earlier, disapproved deferral. Because the reason given for the February 5, 1986, redeferral of $156.8 million was the same as that which the Congress considered in August 1985 and rejected by law, we believe the current withholding of the $156.8 million is in violation of the Supplemental Appropriations Act and the Impoundment Control Act.

On February 25, 1986, we asked the Secretary of Energy to advise us by March 3 when the funds would be released. By letter of March 3, 1986, the General Counsel, Department of Energy informed us that the Department needs to carefully examine certain legal issues before releasing the funds.

Section 1016 of the Act, 2 U.S.C. 687, authorizes the Comptroller General to institute a civil action in the United States District Court for the District of Columbia to require the release of budget authority that is to be made available pursuant to section 1013(b), 2 U.S.C. 684(b). Section 1016 also provides that the Comptroller General is to file with the Congress an explanatory statement of the circumstances giving rise to the action contemplated. The Comptroller General may not bring a civil action until the expiration of 25 calendar days of continuous congressional session after the date on which the explanatory statement is filed.

On the basis of the present circumstances, we contemplate bringing a civil action to compel release of the budget authority. Taking into account a scheduled interruption in the congressional session, from March 26 through April 7, the 25-day period of continuous session which under section 1016 of the Act must elapse before we can bring such a suit expires on April 11, 1986.

Sincerely yours,

CHARLES A. BOWSHER,
Comptroller General of the United States.

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